

R E M A R K S

Claims 1-37 are pending in the application. Claims 19-30 have been withdrawn. Claims 1, 31 and 35-37 have been amended. Claims 1, 31-32 and 35-37 are independent claims. No new matter has been added by this amendment.

Applicants respectfully submit that the present application is in condition for allowance.

Accordingly, reconsideration and allowance of the present application are respectfully requested.

Claim Amendments

Claims 1, 31 and 35-37 have been amended.

The amendments to claims 1 and 35-37 are supported for example, at page 31, lines 27-29. Applicants respectfully point out that the Office Action appears to assume that claims 1 and 35-37 already recited the recitations added by the amendments to claims 1 and 35-37.

The amendment to claim 31 is supported, for example, at page 7, lines 22-23.

Claim Rejections – 35 USC § 103

Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fargo, “The fight for retail credit”, Credit Card Management, Vol. 13, Issue 9, pages 40-45, December 2000 (Fargo) in view of U.S. Patent No. 7,254,557 (Gillin et al.) and U.S. Patent No. 6,032,136 (Brake et al.).

Claims 31-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,945,653 (Walker et al.), in view of U.S. Patent No. 4,813,077 (Woods et al.), U.S. Patent No. 5,255,182 (Adams), U.S. Patent No. 5,231,569 (Myatt), INDUSTRY BRIEFS, Card News. Potomac: December 22, 1997, Vol. 12, Issue 25, and Fargo, “The fight for retail credit”, Credit Card Management, Vol. 13, Issue 9, pages 40-45, December 2000 (Fargo).

Claims 35-37 are rejected under U.S.C. 103(a) as being unpatentable over Fargo, “The fight for retail credit”, Credit Card Management, Vol. 13, Issue 9, pages 40-45, December 2000

(Fargo) in view of U.S. Patent No. 7,254,557 (Gillin et al.), U.S. Patent No. 6,032,136 (Brake et al.) and U.S. Publication No. 2004/0049452 (Blagg).

Reconsideration and withdrawal of the rejections is respectfully requested.

Claim 1

Claim 1 recites a method, comprising: selecting a private label account maintained on a **first processing platform** for upgrade to a dual card account, said private label account associated with an account holder and having associated monetary and non-monetary data; creating said dual card account with a **zero balance** on a **second processing platform**; transferring said non-monetary data associated with said private label account to said second processing platform for association with said dual card account; causing a dual card associated with said dual card account to be transmitted to account holder, said dual card and said dual card account being inactive until activated; and **transferring said monetary data** associated with said private label account to said second processing platform for association with said dual card account. (emphasis added).

Neither Fargo, nor Gillin et al., nor Brake et al., nor any proper combination thereof teaches or suggests the method of claim 1.

Fargo states that Kmart Corp announced it was converting its private-label card program to a MasterCard issued by Capital One Financial Corp (page 2, para 2). The ability to approve more consumers played a major role in convincing the retailer to replace its private-label program, run by Household, with a cobrand issued by Capital one (page 5, para 1).

However, Fargo does not teach or suggest selecting a private label account maintained on a **first processing platform** for upgrade to a dual card account and creating said dual card account on a **second processing platform**.

Notably, the statements in Fargo do not make it clear that the private label card program is necessarily maintained on a **first processing platform** and that the cobrand card is created on a **second processing platform**.

Moreover, Fargo does not teach or suggest creating the cobrand card account with a **zero balance**.

Nor does Fargo teach or suggest transferring said non-monetary data associated with said private label account to said second processing platform for association with said dual card account.

Nor does Fargo teach or suggest **transferring said monetary data** associated with said private label account to said second processing platform for association with said dual card account.

For at least the reasons above, Fargo does not teach or suggest a method, comprising: selecting a private label account maintained on a **first processing platform** for upgrade to a dual card account, said private label account associated with an account holder and having associated monetary and non-monetary data; creating said dual card account with a **zero balance** on a **second processing platform**; transferring said non-monetary data associated with said private label account to said second processing platform for association with said dual card account; causing a dual card associated with said dual card account to be transmitted to account holder, said dual card and said dual card account being inactive until activated; and **transferring said monetary data** associated with said private label account to said second processing platform for association with said dual card account, as recited in claim 1. (emphasis added).

Gillin et al. discloses a financial services payment vehicle and method (title). The financial services card accounts are initially preferably issued in the name of the offeror 300 and preset, in the case of debit cards, to zero value, or, in the case of credit or charge cards, a zero balance and credit limit (col. 13, lines 48-52).

However, at the very least, and as with Fargo, Gillin et al. do not teach or suggest a method, comprising: selecting a private label account maintained on a **first processing platform** for upgrade to a dual card account; creating said dual card account with a **zero balance** on a **second processing platform**; transferring said non-monetary data associated with said private label account to said second processing platform for association with said dual card account; and **transferring said monetary data** associated with said private label account to said second processing platform for association with said dual card account, as recited in claim 1. (emphasis added).

Brake et al. disclose a customer activated multi-value (CAM) card (title). The CAM card provides a customer with a transaction card with a primary use that is not a credit use, to which

the customer can add a credit card feature, as well as other features which can be added to enhance the transaction card's usage (col. 2, lines 43-47). If the customer agrees to a balance transfer, the balance transfer process is initiated (col. 10, lines 19-20). The customer provides a name of a credit card account from which the balance is to be transferred (col. 10, lines 25-27). If the balance is being transferred from a major credit card account, the customer service representative requests the account number and amount (col. 10, lines 27-30).

However, at the very least, and as with Fargo and Gillin et al., Brake et al. do not teach or suggest a method, comprising: selecting a private label account maintained on a **first processing platform** for upgrade to a dual card account; creating said dual card account with a **zero balance** on a **second processing platform**; transferring said non-monetary data associated with said private label account to said second processing platform for association with said dual card account; and **transferring said monetary data** associated with said private label account to said second processing platform for association with said dual card account, as recited in claim 1. (emphasis added).

Moreover, neither the statement in Gillin et al. (i.e., that financial services card accounts are preferably preset, in the case of credit or charge cards, to a zero balance) nor the statements in Brake et al. (i.e., if a customer agrees to a balance transfer, the customer provides a name of a credit card account, the account number and amount) could not possibly motivate one of ordinary skill in the art to modify Fargo to include creating said dual card account with a **zero balance**; and **transferring said monetary data** associated with said private label account to said second processing platform for association with said dual card account, as recited in claim 1. (emphasis added).

For at least the reasons above, neither Fargo, nor Gillin et al., nor Brake et al., nor any proper combination thereof teaches or suggests a method, comprising: selecting a private label account maintained on a **first processing platform** for upgrade to a dual card account, said private label account associated with an account holder and having associated monetary and non-monetary data; creating said dual card account with a **zero balance** on a **second processing platform**; transferring said non-monetary data associated with said private label account to said second processing platform for association with said dual card account; causing a dual card associated with said dual card account to be transmitted to account holder, said dual card and

said dual card account being inactive until activated; and transferring said monetary data associated with said private label account to said second processing platform for association with said dual card account, as recited in claim 1.

Applicants respectfully submit that the rejection is also improper for the reasons below.

The Office Action states that the statements in Fargo amount to selecting a private label account maintained on a first processing platform for upgrade to a dual card account and creating said dual card account on a second processing platform.

In making such statement, the Office Action appears to take the position that selecting a private label account maintained on a first processing platform for upgrade to a dual card account and creating said dual card account on a second processing platform is inherent in converting a private-label card program run by Household to a cobrand card issued by Capital One Financial Corp.

Applicants respectfully submit that such position is improper (see MPEP 2112 (IV) " 'to establish inherency, the extrinsic evidence must make clear that the missing descriptive matter is necessarily present' . . . [i]nherency . . . may not be established by probabilities or possibilities' ", citing *In re Robertson*, 169 F.3d 743, 745, 49 USPQ2d 1949, 1950-51 (Fed. Cir. 1999)) (emphasis added).

Applicants respectfully point out that the statements in Fargo do not make it clear that the private label card program is necessarily maintained on a first processing platform and that the cobrand card is created on a second processing platform.

In view thereof, Applicants respectfully submit that the rejection is improper and cannot possibly establish a prima facie case of unpatentability.

The Office Action further states that it would have been obvious to one of ordinary skill in the art to combine the methods of Fargo, Gillin et al. and Brake et al. as these procedures amount to standard and/or common business practices of transferring information from one credit card to another and issuing new credit cards to customers (Office Action, page 7, lines 5-10).

Applicants respectfully point out that such statement in the Office Action does not actually articulate the proposed combination of Fargo, Gillin et al. and Brake et al.

Applicants respectfully submit that Applicants should not be required to guess what is in the mind of the Examiner. As stated in MPEP 706, “the goal of examination is to clearly articulate any rejection early in the prosecution process so that the applicant has the opportunity to provide evidence of patentability and otherwise reply completely at the earliest opportunity.” Applicants respectfully submit that the rejection falls short of complying with the requirements of MPEP 706.

Applicants respectfully submit that the rejection is therefore unclear and improper and cannot possibly establish a prima facie case of unpatentability.

The Office Action further states that it would have been obvious to one of ordinary skill in the art to combine the methods of Fargo, Gillin et al. and Brake et al. as these procedures amount to standard and/or common business practices of transferring information from one credit card to another and issuing new credit cards to customers (Office Action, page 7, lines 5-10).

Applicants respectfully disagree.

Although the statements in Gillin et al. and Brake et al. might motivate one of ordinary skill in the art to modify Fargo to offer a customer an option to transfer a balance from some other credit card, it would not motivate one of ordinary skill in the art to modify Fargo to create the cobrand card account in Fargo with a **zero balance** and **transfer monetary data** associated with said private label account to a second processing platform for association with the cobrand.

For at least the reasons above, Applicants respectfully submit that the rejection is unclear and improper and cannot possibly establish a prima facie case of unpatentability.

Accordingly, reconsideration and withdrawal of the rejection are respectfully requested.

Claim 31

Claim 31 recites a method for routing a transaction, comprising: generating an authorization request, said request including a transaction amount and an account identifier, said account identifier including a portion identifying an issuer of said account and a portion identifying a type of said account; routing said authorization request to said issuer via a first authorization network if said account identifier indicates that said account is a first type of account, **wherein said first type of account is a dual card account**; and routing said

authorization request to said issuer via a second authorization network if said account identifier indicates that said account is a second type of account. (emphasis added).

Neither Walker et al., nor Woods et al., nor Adams, nor any combination thereof proposed in the Office Action teaches or suggests the method of claim 31.

Walker et al. disclose a system and method for establishing and executing functions to affect credit card accounts and transactions (title).

Woods et al. disclose a sales transaction record processing system and method (title).

Adams discloses payment card point-of-sale service quality monitoring system, apparatus, and method (title).

Notably, neither Walker et al., nor Woods et al., nor Adams, nor any combination thereof proposed in the Office Action teaches or suggests routing said authorization request to said issuer via a first authorization network if said account identifier indicates that said account is a first type of account, **wherein said first type of account is a dual card account**; and routing said authorization request to said issuer via a second authorization network if said account identifier indicates that said account is a second type of account (emphasis added).

For at least the reasons above, neither Walker et al., nor Woods et al., nor Adams, nor any combination thereof proposed in the Office Action teaches or suggests a method for routing a transaction, comprising: generating an authorization request, said request including a transaction amount and an account identifier, said account identifier including a portion identifying an issuer of said account and a portion identifying a type of said account; routing said authorization request to said issuer via a first authorization network if said account identifier indicates that said account is a first type of account, **wherein said first type of account is a dual card account**; and routing said authorization request to said issuer via a second authorization network if said account identifier indicates that said account is a second type of account, as recited in claim 31 (emphasis added).

Accordingly, reconsideration and withdrawal of the rejection is respectfully requested.

Claim 32

Claim 32 recites a method for operating a private label processing platform, comprising: receiving, from a private label processing network, an authorization request, said authorization

request including information identifying a transaction amount, a merchant, and an account identifier; **determining that said account identifier is an identifier of a dual card account**; and forwarding said authorization request to a dual card processing platform for authorization. (emphasis added).

Neither Walker et al., nor Woods et al., nor Adams, nor Myatt, nor Fargo nor Card News, nor any combination thereof proposed in the Office Action teaches or suggests the method of claim 32.

Notably, and at the very least, neither Walker et al., Woods et al., Adams, Myatt, Fargo and Card News, nor any combination thereof proposed in the Office Action teaches or suggests a method for operating a private label processing platform, comprising: receiving an authorization request including information identifying a transaction amount, a merchant, and an account identifier; and **determining that said account identifier is an identifier of a dual card account**. (emphasis added).

For at least the reasons above, neither Walker et al., Woods et al., Adams, Myatt, Fargo and Card News, nor any combination thereof proposed in the Office Action teaches or suggests a method for operating a private label processing platform, comprising: receiving, from a private label processing network, an authorization request, said authorization request including information identifying a transaction amount, a merchant, and an account identifier; **determining that said account identifier is an identifier of a dual card account**; and forwarding said authorization request to a dual card processing platform for authorization; as recited in claim 32 (emphasis added).

Accordingly, reconsideration and withdrawal of the rejection is respectfully requested.

Applicants respectfully submit that the rejection is also improper for the reasons below.

The Office Action states that it would have been obvious to one of ordinary skill in the art to combine the methods of Walker et al., Woods et al., Adams, Myatt, Fargo and Card News. One of ordinary skill in the art would have been motivated to do so in order to reduce processing costs and interchange fees associated with routing transactions through the major credit card networks.

Applicants respectfully disagree.

First, Applicants respectfully point out that the *statement in the Office Action does not* actually articulate the proposed combination of Walker et al., Woods et al., Adams, Myatt, Fargo and Card News. For example, how in particular, does the Examiner propose that the cited methods of Walker et al., Woods et al., Adams, Myatt, Fargo and Card News be combined to result in the method of claim 32.

As stated above, Applicants respectfully submit that Applicants should not be required to guess what is in the mind of the Examiner. As stated in MPEP 706, “the goal of examination is to clearly articulate any rejection early in the prosecution process so that the applicant has the opportunity to provide evidence of patentability and otherwise reply completely at the earliest opportunity.” Applicants respectfully submit that the rejection falls far short of complying with the requirements of MPEP 706.

Second, Applicants respectfully point out that the Office Action does not articulate how, in particular, the proposed motivation could possibly lead one of ordinary skill in the art to combine the Walker et al., Woods et al., Adams, Myatt, Fargo and Card News as contemplated, but not articulated, by the Examiner.

As stated above, Applicants respectfully submit that Applicants should not be required to guess what is in the mind of the Examiner. As stated in MPEP 706, “the goal of examination is to clearly articulate any rejection early in the prosecution process so that the applicant has the opportunity to provide evidence of patentability and otherwise reply completely at the earliest opportunity.” Applicants respectfully submit that the rejection falls far short of complying with the requirements of MPEP 706.

For at least the reasons above, Applicants respectfully submit that the rejection is unclear and improper and cannot possibly establish a prima facie case of unpatentability.

Accordingly, reconsideration and withdrawal of the rejection is respectfully requested.

Claim 35

Claim 35 recites a payment card processing apparatus, comprising: a processor; and a storage device in communication with said processor and storing instructions adapted to be executed by said processor to: select a private label account maintained on a first processing platform for upgrade to a dual card account, said private label account associated with an account

holder and having associated monetary and non-monetary data; create said dual card account with a zero balance on a second processing platform; transfer said non-monetary data associated with said private label account to said second processing platform for association with said dual card account; cause a dual card associated with said dual card account to be transmitted to account holder, said dual card and said dual card account being inactive until activated; and transfer said monetary data associated with said private label account to said second processing platform for association with said dual card account.

Neither Fargo, nor Gillin et al., nor Brake et al., nor Blagg, nor any proper combination thereof teaches or suggests the payment card processing apparatus of claim 35.

At the very least, neither Fargo, nor Gillin et al., nor Brake et al., nor Blagg teach or suggest a processor; and a storage device in communication with said processor and storing instructions adapted to be executed by said processor to: select a private label account maintained on a first processing platform for upgrade to a dual card account, create said dual card account with a zero balance on a second processing platform; and transfer said monetary data associated with said private label account to said second processing platform for association with said dual card account, as recited in claim 35.

For at least the reasons above, neither Fargo, nor Gillin et al., nor Brake et al., nor Blagg, nor any proper combination thereof teaches or suggests a payment card processing apparatus, comprising: a processor; and a storage device in communication with said processor and storing instructions adapted to be executed by said processor to: select a private label account maintained on a first processing platform for upgrade to a dual card account, said private label account associated with an account holder and having associated monetary and non-monetary data; create said dual card account with a zero balance on a second processing platform; transfer said non-monetary data associated with said private label account to said second processing platform for association with said dual card account; cause a dual card associated with said dual card account to be transmitted to account holder, said dual card and said dual card account being inactive until activated; and transfer said monetary data associated with said private label account to said second processing platform for association with said dual card account, as recited in claim 35.

In addition, Applicants respectfully submit that the combination of Fargo, Gillin et al., Brake et al., and Blagg is also improper for reasons similar to those set forth above with respect to claim 1.

Accordingly, reconsideration and withdrawal of the rejection are respectfully requested.

Claim 36

Claim 36 recites a payment card processing system, comprising: means for selecting a private label account maintained on a first processing platform for upgrade to a dual card account, said private label account associated with an account holder and having associated monetary and non-monetary data; means for creating said dual card account with a zero balance on a second processing platform; means for transferring said non-monetary data associated with said private label account to said second processing platform for association with said dual card account; means for causing a dual card associated with said dual card account to be transmitted to account holder, said dual card and said dual card account being inactive until activated; and means for transferring said monetary data associated with said private label account to said second processing platform for association with said dual card account.

Neither Fargo, nor Gillin et al., nor Brake et al., nor Blagg, nor any proper combination thereof teaches or suggests the payment card processing system of claim 36.

At the very least, neither Fargo, nor Gillin et al., nor Brake et al., nor Blagg teach or suggest means for selecting a private label account maintained on a first processing platform for upgrade to a dual card account, means for creating said dual card account with a zero balance on a second processing platform; and means for transferring said monetary data associated with said private label account to said second processing platform for association with said dual card account, as recited in claim 36.

For at least the reasons above, neither Fargo, nor Gillin et al., nor Brake et al., nor Blagg, nor any proper combination thereof teaches or suggests a payment card processing system, comprising: means for selecting a private label account maintained on a first processing platform for upgrade to a dual card account, said private label account associated with an account holder and having associated monetary and non-monetary data; means for creating said dual card account with a zero balance on a second processing platform; means for transferring said non-

monetary data associated with said private label account to said second processing platform for association with said dual card account; means for causing a dual card associated with said dual card account to be transmitted to account holder, said dual card and said dual card account being inactive until activated; and means for transferring said monetary data associated with said private label account to said second processing platform for association with said dual card account, as recited in claim 36.

In addition, Applicants respectfully submit that the combination of Fargo, Gillin et al., Brake et al., and Blagg is also improper for reasons similar to those set forth above with respect to claim 1.

Accordingly, reconsideration and withdrawal of the rejection are respectfully requested.

Claim 37

Claim 37 recites a medium storing instructions adapted to be executed by a processor to perform a payment card processing method, said method comprising: selecting a private label account maintained on a first processing platform for upgrade to a dual card account, said private label account associated with an account holder and having associated monetary and non-monetary data; creating said dual card account with a zero balance on a second processing platform; transferring said non-monetary data associated with said private label account to said second processing platform for association with said dual card account; causing a dual card associated with said dual card account to be transmitted to account holder, said dual card and said dual card account being inactive until activated; and transferring said monetary data associated with said private label account to said second processing platform for association with said dual card account.

Neither Fargo, nor Gillin et al., nor Brake et al., nor Blagg, nor any proper combination thereof teaches or suggests the medium of claim 37.

At the very least, neither Fargo, nor Gillin et al., nor Brake et al., nor Blagg teach or suggest a medium storing instructions adapted to be executed by a processor to perform a payment card processing method, said method comprising: selecting a private label account maintained on a first processing platform for upgrade to a dual card account, creating said dual card account with a zero balance on a second processing platform; and transferring said monetary

data associated with said private label account to said second processing platform for association with said dual card account, as recited in claim 37.

For at least the reasons above, neither Fargo, nor Gillin et al., nor Brake et al., nor Blagg, nor any proper combination thereof teaches or suggests a medium storing instructions adapted to be executed by a processor to perform a payment card processing method, said method comprising: selecting a private label account maintained on a first processing platform for upgrade to a dual card account, said private label account associated with an account holder and having associated monetary and non-monetary data; creating said dual card account with a zero balance on a second processing platform; transferring said non-monetary data associated with said private label account to said second processing platform for association with said dual card account; causing a dual card associated with said dual card account to be transmitted to account holder, said dual card and said dual card account being inactive until activated; and transferring said monetary data associated with said private label account to said second processing platform for association with said dual card account, as recited in claim 37.

In addition, Applicants respectfully submit that the combination of Fargo, Gillin et al., Brake et al., and Blagg is also improper for reasons similar to those set forth above with respect to claim 1.

Accordingly, reconsideration and withdrawal of the rejection are respectfully requested.

Dependent claims

Claims 2-18 depend from independent claim 1 and should be allowed for at least the reasons set forth above with respect to independent claim 1.

Claims 33-34 depend from independent claim 32 and should be allowed for at least the reasons set forth above with respect to independent claim 32.

CONCLUSION

For at least the reasons set forth above, Applicants respectfully submit that the present application is in condition for allowance. Accordingly, reconsideration and allowance of the present application are respectfully requested.

Because the reasons set forth above are sufficient to overcome the rejections set forth in the outstanding Office Action, Applicants do not address some of the assertions set forth therein and/or other possible reasons for overcoming the rejections. Nonetheless, Applicants reserve the right to address such assertions and/or to present other possible reasons for overcoming the rejections in any future paper and/or proceeding.

If the Examiner believes that a telephone interview would expedite the prosecution of this application in any way, the Examiner is cordially requested to contact the undersigned via telephone at (203) 972-0006, ext. 1014.

Respectfully submitted,

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